

FIVE FEDERAL LAWS AND THE NATIONAL COMPACT

Adoption and Safe Families Act (ASFA)

The Adoption and Safe Families Act was signed into law on November 19, 1997, and amends federal laws to promote safety and permanency. 42 U.S.C. §§ 670-679. ASFA represents a fundamental shift in focus that underscores the safety of a child first and foremost. Dissatisfied with the failure of most states to achieve permanency for children within 18 months from the time a child is removed from a family, ASFA mandates 12 months to permanency. It identifies certain circumstances in which the social services agencies are under no obligation to attempt reunification due to certain acts by a parent and further emphasizes the role of the courts in achieving permanency for children. Federal monitoring for compliance with ASFA is established along with the expectation that the courts and agencies will reassess their working relationship and establish meaningful partnerships to effectuate systemic change to achieve better outcomes for children and families. Florida Statutes were amended several times to incorporate the requirements of ASFA.

Key provisions of ASFA include:

- Safety of the child is paramount. ASFA requires states to place the safety of the child before the goal of family preservation in making placement decisions. 42 U.S.C. § 671(a)(15)(A).
- Permanency hearings. A permanency hearing must be held within 12 months of the date the child enters foster care. Permanency goals include reunification, adoption, legal guardianship, and permanent relative placement. The child welfare agency may place the child in another planned, permanent living arrangement (APPLA) if it documents a “compelling reason” for the child’s placement in an APPLA rather than pursuing one of the other permanency plans.
- Reasonable efforts to prevent removal. The court must find that the department made “reasonable efforts” to prevent the child’s removal from the home within 60 days of actual removal. If no finding is made, Title IV-E funding is lost for the child’s entire stay in care. 45 C.F.R. § 1356.21(b)(1)(ii).
- Reasonable efforts to finalize a permanency plan within 12 months. ASFA requires that the court make a finding that DCF made reasonable efforts to finalize a permanency plan within 12 months of the date the child enters foster care. This would typically occur at the permanency hearing. The court must continue to make this finding every 12 months, for as long as the child is still under the jurisdiction of the court.
- Contrary to welfare determination. The first court order after a child’s removal must include a finding that the child’s continuing at home is “contrary to the welfare of the child.” Failure to make this finding could result in the child being ineligible for Title IV-E funding for the entire stay in care.

Reunification services not always required. ASFA sets forth certain circumstances under which the court may waive the requirement that reasonable efforts to reunify be made. These are referred to as “aggravated circumstances.” If a parent has been convicted of certain felonies, the court is required to waive reasonable efforts to reunify.